IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7049 of 1995

For Approval and Signature:

Hon'ble MR.JUSTICE K.M.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

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INDUBHAI R DAVE

Versus

STATE OF GUJARAT

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Appearance:

1. Special Civil Application No. 7049 of 1995

MR NK MAJMUDAR for Petitioner No. 1

MR BY MANKAD, AGP for Respondent No. 1

NOTICE SERVED for Respondent No. 2

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CORAM : MR.JUSTICE K.M.MEHTA

Date of decision: 18/02/2002

ORAL JUDGEMENT

1. Indubhai R.Dave, petitioner has filed this petition originally challenging the action of the State of Gujarat through Secretary, Panchayat & Rural Housing

Development Department - respondent No.1 and respondent No.2 Special Officer for Departmental Enquiries (Gazetted) Unit No.3, Dr.Jivraj Mehta Bhavan, Gandhinagar, in proceeding with the departmental enquiry after the retirement of the petitioner by issuing a writ of mandamus and or any other appropriate writ, order or direction in this behalf. The said petition was filed somewhere in August, 1995.

2. The facts giving rise to this petition are as under:-

2.1 The petitioner was initially joined in the service in June 1955 as Junior Clerk in erstwhile District School Board, Baroda. Subsequently, he was promoted on the post of Senior Clerk in the year 1958. Thereafter on 1.4.1963 on the formation of Panchayat Raj, the petitioner was allocated to the Baroda District Panchayat. Thereafter in 1964 the petitioner was promoted as Accountant in Taluka Panchayat. In 1978 the petitioner was promoted as Divisional Accountant in P.W.D.Branch of the Baroda District Panchayat.

2.2 The petitioner submits that from 1.9.80 to 30.11.80, he was temporarily given the charge of Class II post of T.D.O.,Savli. Thereafter after 30.11.1980 the petitioner was reposted as Divisional Accountant in Class III post. Ultimately the petitioner was regularly promoted on the post of T.D.O. Talaja in Bhavnagar District in Class II post which is known as Development Service Class II on 6.8.82. In January 1989 petitioner was promoted as Project Officer-cum-T.D.O. at Valiya in Bharuch District in Gujarat Administrative Service Cadre, Class II. From that post the petitioner was retired from service on 30.4.91.

2.3 It has been further stated by the petitioner that a day before his retirement i.e. on 29.4.91 he was served with a chargesheet dated 26.4.91. The allegations mentioned in the chargesheet are of the period between 1.9.80 and 30.11.80 during which period the petitioner was temporarily given the charge of T.D.O. Savli in Baroda District. The petitioner challenged the said proceedings pendency of the departmental proceedings. Thereafter petitioner also filed reply in this behalf. Thereafter the Government appointed inquiry officer and by their order dated 3rd June 1995 the petitioner originally challenged the said order before this Court.

3. When the matter was placed for hearing before this Court on 23.3.1996 this Court (Coram: C.K.Thakkar,

J. (as he was then) ) after going through the judgment of the Hon'ble Supreme Court in the case of The State of Madhya Pradesh vs. Bani Singh and another reported in AIR 1990 SC 1308 refused the interim relief and made rule returnable on that day.

4. During the pendency of the proceedings, the petitioner filed Civil Application No.6355 of 2001 in Special Civil Application No.7049 of 1995 in which petitioner stated that though petitioner requested for expediting the departmental inquiry the authority also by their communication dated 1.1.97 stated that the departmental inquiry of the petitioner was pending since long time. However, on 15th March, 2001, again the Government appointed an inquiry officer for initiation of departmental inquiry. Today we are in February 2002 and even eleven months have been passed after appointing the inquiry officer.

5. I have heard the learned advocate for the petitioner and learned AGP Mr.B.Y.Mankad in this behalf.

6. In view of the same, I direct the respondent authority to complete the departmental inquiry by 31st March, 2002, if not. It may be noted that petitioner will also co-operate in the departmental enquiry in this behalf and whatever the additional evidence he desires to produce, he may produce the same before the authority and the authority will also take necessary action in this behalf.

7. In view of the aforesaid directions, this petition is disposed of accordingly with no order as to costs. Rule is discharged.

(K.M. Mehta, J.)

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